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6 **IN THE UNITED STATES DISTRICT COURT**

7 **FOR THE DISTRICT OF ARIZONA**

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9 Daniel Roy Organ,) No. CV 11-0158-PHX-GMS (LOA)

10 Petitioner,) **ORDER**

11 vs.)

12 Joseph M. Arpaio, et al.,)

13 Respondents.)

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15 Petitioner Daniel Roy Organ, who is subject to probation, has filed a Petition for Writ

16 of Habeas Corpus through counsel pursuant to 28 U.S.C. § 2254. (Doc. 1.)¹ He has paid the

17 \$5.00 filing fee. The Petition will be dismissed with leave to file an Amended Petition within

18 30 days.

19 **I. Petition**

20 In his Petition, Petitioner names Maricopa County Sheriff Joseph M. Arpaio as

21 Respondent and the Arizona Attorney General as an Additional Respondent. Petitioner

22 raises two grounds for relief for an unlawful vehicle stop and a warrantless search following

23 his arrest.

24 **II. Petitioner Must Name the Person Having Custody of Him**

25 A petitioner for habeas relief must name the state officer having custody of him as a

26 respondent to the petition. Smith v. Idaho, 392 F.3d 350, 354 (9th Cir. 2004) (citing Stanley

27 v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994)). Failure to name the proper

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¹ “Doc.” refers to the docket number of documents filed in this action.

respondent deprives the court of personal jurisdiction over the custodian. Smith, 392 F.3d at 354. A petitioner on probation or parole due to a state court judgment must name the probation or parole officer responsible for supervising him and the official in charge of the parole or probation agency, or the state correctional agency, as appropriate, as Respondents. See Rule 2(b), 28 U.S.C. foll. § 2254, advisory committee's note. Further, in this District, a petitioner typically also names the Arizona Attorney General as a respondent. See Belgarde v. State of Montana, 123 F.3d 1210, 1212-13 (9th Cir. 1997).

Petitioner fails to name his probation officer and the official in charge of the probation agency as respondents. Petitioner will be granted leave to amend his Petition to name the proper Respondents.

III. Petitioner Fails to Allege a Constitutional Violation in His Petition

Federal habeas relief is available "only on the ground that [an inmate] is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). Under Rule 2(c) of the Rules Governing Section 2254 Cases, a § 2254 petition must state all grounds for relief that may be available to the petitioner, the particular federal right allegedly violated, the facts supporting each ground, and the relief requested. In this case, Petitioner alleges an unlawful vehicle stop and search, but he fails to allege the violation of any particular constitution right. The Court will dismiss the Petition with leave to amend to identify the constitutional rights allegedly violated.

IV. Leave to Amend

For the foregoing reasons, Petitioner's Petition will be dismissed with leave to amend. Within 30 days, Petitioner must submit a first amended petition to cure the deficiencies outlined above.

Petitioner must clearly designate on the face of the document that it is the "First Amended Petition." The first amended petition must be retyped or rewritten in its entirety on the court-approved form and may not incorporate any part of the original Petition by reference.

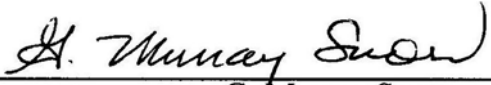
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IT IS ORDERED:

(1) The Petition is **dismissed** for the reasons stated. (Doc. 1.) Petitioner has **30 days** from the date this Order is filed to file a first amended petition in compliance with this Order.

(2) If Petitioner fails to file an amended petition within 30 days, the Clerk of Court must, without further notice, enter a judgment of dismissal of this action without prejudice.

DATED this 10th day of February, 2011.



G. Murray Snow
United States District Judge